United Nations A/58/557

General Assembly

Distr.: General
7 November 2003

Original: English

Fifty-eighth session
Agenda item 83
United Nations Relief and Works Agency for Palestine Refugees in the Near East

Letter dated 6 November 2003 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General

Enclosed is a copy of the response of the Government of Israel to the report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East for the period from 1 July 2002 to 30 June 2003 (A/58/13) (see annex).

I should be grateful if you would arrange to have the text of the present letter and its annex distributed as a document of the fifty-eighth session of the General Assembly under agenda item 83.

(*Signed*) Dan **Gillerman**
Permanent Representative

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Annex to the letter dated 6 November 2003 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General

Response of the Government of Israel to the report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East for the period from 1 July 2002 to 30 June 2003[1]

1. Israel has examined with interest the most recent report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) to the General Assembly for the last mandate year (July 2002-June 2003). Unfortunately, as has been the case in previous years and as was detailed extensively in Israel's response to last year's report (A/C.4/57/4, annex), little has changed in the Agency's lack of appreciation for the overall situation in the area and, specifically, for security constraints facing Israel. Indeed, any changes which have been seen in the Agency's position in regard to those security constraints have, ironically, been changes for the worse.

2. Israel appreciates and reaffirms its support for the humanitarian work being carried out by UNRWA, other international organizations and many non-governmental organizations. Israel continues to facilitate, to the best of its ability, the carrying out of the mandate of these organizations, including UNRWA, despite the unprecedented wave of terrorism and violence initiated by the Palestinian side. There is, however, little recognition by UNRWA in its report that the conditions under which it operates have been, and continue to be, determined by the continuing violence in the region. This violence necessitates self-defence actions, including military operations, in order to offer protection for innocent civilians from such heinous acts.

3. The dialogue of cooperation and interaction between UNRWA and Israel has, however, remained unaltered and in many ways enhanced since the outbreak of the current violence in September 2000. This dialogue is conducted through contacts on all levels, aimed at facilitating the efforts of UNRWA to fulfil its mandate. It is clear that in the extraordinary circumstances prevailing in the region, differences of opinion have arisen and will continue to arise in this ongoing dialogue. However, Israel's commitment to finding pragmatic and direct solutions to problems arising in the field remains strong and should continue to be the only basis of such cooperation in discussing the obligation to cooperate and facilitate UNRWA activities. Israel's experience with other organizations and agencies in the area has shown that an excellent cooperative relationship is possible and it is regrettable that UNRWA does not exploit this option fully.

4. The report extensively details the difficulties and impediments encountered owing to disagreements on the "scope or application of the consideration of military security to which this obligation has been subject". However, nowhere within the report does UNRWA acknowledge Israel's security constraints in the West Bank and Gaza and its need, on the basis of military necessity, to protect its citizens against a concerted policy of terror. Paragraph 4 of the report states that "[s]uicide bombings inside Israel continued, causing heavy loss of life". This is the only mention made of Israel's security dilemma as expressed in the conditions on the ground and decidedly

fails to capture the full scope of the situation in Israel, the West Bank and the Gaza Strip. Indeed, suicide bombings, which constitute a crime against humanity and are contrary to basic norms of international law and fundamental human values, have accounted for 411 of the nearly 900 Israeli fatalities since September 2000. They do not, however, encompass the entire range of lethal means instigated by Palestinian terrorists in an effort to kill and wound Israeli civilians and Israel Defense Forces (IDF) personnel.

5. Faced with this reality, the State of Israel is obliged to realize its right and duty to act in self-defence and to utilize the requisite military measures in accordance with the laws of armed conflict. Furthermore, United Nations resolutions, especially Security Council resolution 1373 (2001), specifically obligate States to combat terrorism wherever it may be found. The report, surprisingly, fails to mention the obligatory nature of Israel's defensive measures.

6. The recognition of this necessity is embodied in the 1967 Comay-Michelmore Exchange of Letters between the Government of the State of Israel and UNRWA:

> "... [T]he Israel Government will facilitate the task of UNRWA to the best of its ability, subject only to regulations or arrangements which may be necessitated by considerations of military security."

This basic recognition by UNRWA of the security needs of Israel is, regrettably, not endorsed in the current report.

7. Bearing in mind these general remarks, Israel offers the following comments regarding several specific issues raised in the report.

8. At the outset, Israel wishes to express its deep concern over the admission, in paragraph 179 of the report, that UNRWA — a United Nations agency — submits, as a matter of standard procedure, importation documents to the offices of the Syrian governmental agency which serves as the "Boycott Office". This official body inspects imports for compliance with the Arab boycott against Israel, a clear violation of Article 100 of the Charter of the United Nations as well as the basic tenets of the World Trade Organization and international law. This complicity by a United Nations agency with the illegal boycott by a Member State is inconsistent with the principle of neutrality as well as a contravention of the principle of the sovereign equality of States, as embodied in the Charter of the United Nations and other basic norms of international law. The statement that UNRWA "should not be subjected to this requirement" is a gross understatement of the gravity of the matter. The United Nations cannot permit this situation to continue and anything less than a clear and aggressive opposition to this illegal policy should be unacceptable. Even more disturbing is the fact that Israel pointed out this situation last year, in its response to the last UNRWA report and in the Fourth Committee of the General Assembly, yet no steps have been taken to rectify the situation.

Politicization of UNRWA senior staff

9. In the current reporting period, there has been a disturbing trend of the publication of politically oriented articles in the international press by the Commissioner-General of UNRWA. It should be unacceptable that a senior official of the United Nations, tasked with performing a humanitarian function, express opinions which "take the side" of one party or another to the conflict. The Commissioner-General's articles in the *International Herald Tribune* on 23 June

2003, where he details "horrors" caused by Israeli policies without indicating the underlying reasons that necessitated the Israeli reaction to terror, or his statement in the *Svenska Dagdbladet* of 11 May 2003, stating that UNRWA "represents the inner dream of the Palestinians to return to the house and the village where the family has lived for hundreds of years", are merely two examples of this politicization.

10. Beyond undermining the structures established by the United Nations for the expression of opinions on specific situations, such articles in the press actually undermine the Organization's own credibility and standing. Such articles present contentious subjects in a clearly partisan and selective manner, which falls short of any accepted standard of impartiality and objectivity. While these articles seem intended to assist UNRWA in raising funds, fund-raising considerations should never justify sacrificing credibility and objectivity.

Terror and UNRWA

11. UNRWA is active in all the refugee camps in the Palestinian-controlled areas, in the spheres of education, health and welfare. The Agency employs 22,000 workers, most of whom are Palestinian residents in the West Bank and Gaza. Terrorist organizations use and exploit UNRWA installations as hideouts and places of refuge. While Israel recognizes that UNRWA is not responsible for security in refugee camps, it does expect the organization to draw greater attention to the violent actions taking place there. These actions by armed elements clearly endanger the Palestinians, including children in schools and patients in hospitals. Some local members of Agency staff have assisted or closed their eyes to terrorists seeking refuge at these sites and, in doing so, endanger those depending upon genuine UNRWA services and assistance, while abusing their positions to the detriment of the needy population.

12. Despite the clear responsibility of the Palestinian leadership to combat terrorism and violence, no such action has taken place. In such an environment, Israel has had no choice left but to act to protect its citizens. One such action, necessitated by these circumstances, was the entry of IDF personnel on a number of occasions into Palestinian-controlled areas to arrest known terrorists in the areas of Ramallah and Qalqilya. Fugitives were found hiding in UNRWA schools and clinics. Moreover, many of the youth centres operated by UNRWA in the refugee camps have been used as meeting places by terrorists. For example, an UNRWA youth centre in the Jebalia refugee camp has been used as a meeting place of Fatah Tanzim members. An official office of the Tanzim organization was opened in the Al-Aroub refugee camp, near Hebron, in a building belonging to UNRWA. Following the deaths of Fatah Tanzim terror activists, the Fatah has developed a tradition of holding memorial meetings in the UNRWA club, which is located in the Al-Ascar refugee camp in Nablus. They bring the body of the deceased to the club and hold a rally in his honour.

13. UNRWA has, unfortunately, turned a blind eye to Palestinian terrorist activity occurring in its vicinity in contravention of the principles established in Security Council resolution 1373 (2001). Similar principles regarding actions of United Nations organizations acting within refugee camps were detailed in Security Council resolution 1296 (2000). While the latter resolution dealt specifically with camps in Africa, the clear intent of the resolution was for representatives of the United

Nations to report and act against such armed elements who endanger the lives of the refugees living within the camps.

14. UNRWA facilities have been used for terrorist training and armed operations. Privileges granted to UNRWA workers, such as VIP documents to facilitate movement through checkpoints and the reputation and immunities of UNRWA vehicles have been exploited for the purposes of carrying out terrorist attacks. A number of UNRWA employees were arrested and indicted by Israel for allegedly abusing such United Nations property and privileges for terrorism. These threats receive little or no mention in the current report. Annex I details a number of situations in which UNRWA installations and property have been used for terrorist purposes.

15. In elections held by the UNRWA Area Staff Association during June 2003, candidates representing the Hamas terrorist organization won 23 of the 27 seats. It is inconceivable that an organization unifying the United Nations employees be allowed by the United Nations to openly identify as a terrorist organization.

16. Israeli security personnel have encountered several incidents during the past two years in which Palestinian terrorists have used ambulances bearing international protective symbols, such as the Red Crescent, in an attempt to smuggle weapons, munitions and armed militants, including suicide bombers. These gross violations of basic norms of international humanitarian law oblige IDF forces to conduct inspections of ambulances and United Nations and diplomatic vehicles. Last week's heinous terrorist attack in Baghdad upon the headquarters of the International Committee of the Red Cross (ICRC) by a Red Crescent ambulance loaded with explosives highlights this concern. This situation has been conveyed to UNRWA on several occasions, however a very limited willingness to understand these concerns exists.

17. Particularly serious is the case of Nidal Abd El Fatah Abdallah Nazal, a Hamas activist from Qalqilya, who worked as an UNRWA ambulance driver before being arrested by Israel. Mr. Nazal stated that he used the ambulance to ferry arms to terrorists and exploited the freedom of movement he enjoyed as an UNRWA ambulance driver to pass on messages between the Hamas operatives of various towns.

18. Nahed Rashid Ahmad Attallah, an UNRWA employee in Gaza, was responsible for the distribution of assistance to refugees. Mr. Attallah admitted that he maintains ties with the Popular Front for the Liberation of Palestine (PFLP), the Popular Resistance and Fatah in Gaza. Mr. Attallah disclosed that between 1990 and 1993, in the course of his work with UNRWA, he served these terrorist organizations, providing assistance to families of wanted terrorists. Mr. Attallah also disclosed that during the months of June and July 2002, he used his UNRWA vehicle to transport armed operatives of the Popular Resistance who were travelling to carry out a shooting attack against IDF at the Karni terminal and a rocket attack against settlements in northern Gaza. On another occasion, Mr. Attallah used the official UNRWA car to transport an explosive charge weighing 12 kilograms to Amer Karmout, another operative of the Popular Resistance. Mr. Attallah admitted that **he used the UNRWA vehicle to transport the terrorists, because IDF does not search United Nations vehicles and that he would therefore be able to travel freely on the roads**. Israel has taken measures to ease the humanitarian situation, in

an effort to protect human rights, yet terrorist operatives and organizations wantonly exploit the humanitarian policy to carry out attacks, as shown above.

19. UNRWA workers have been personally implicated in terrorist activity. Over the last two years, a number of UNRWA employees have been indicted — and a number convicted — of terrorism. It is therefore apparent that Agency infrastructure, vehicles and resources have been abused for terrorist purposes.

20. It is difficult to comprehend why, as part of its declared policy, UNRWA does not vet candidates or check their background, in coordination with the Israeli or other authorities, prior to their employment in the Agency, in contrast with the practices of other international governmental organizations. This policy enables workers to exploit their workplace for terrorist purposes, threatening Palestinians and Israelis alike, under the guise of international humanitarian activity.

Specific comments regarding the report

21. Beyond these general comments, attention should be drawn to a number of specific sections of the report. It should be noted, however, that a large number of the difficulties raised in the report (such as those in paragraphs 9 through 11) derive from the basic lack of consideration for Israeli security concerns, as mentioned at the beginning of this response.

(a) *Paragraph 12*. Israel finds it disturbing that the report ignores significant efforts made towards enhancing coordination in the reporting period, especially the implementation of a system of liaison officers in the West Bank whose specific function is to facilitate the activities of humanitarian organizations. These liaison officers — one in each of the districts in the West Bank — were instituted as a direct result of the lessons learned concerning coordination of humanitarian assistance since the outbreak of violence in September 2000. Their sole function, around the clock, is to facilitate the work of humanitarian organizations providing assistance to the civilian population;

(b) *Paragraph 139* speaks of only one employee indicted in the reporting period. As evidenced in the annex, this is incorrect;

(c) *Paragraphs 140-142*. UNRWA complains that it is not given notice of the arrest or detention of its employees. This is accurate. Nevertheless, it must be noted:

(i) Not every UNRWA employee makes his or her connection to the Agency known at the time of arrest, so the fact is not always known by the authorities;

(ii) Israel is under no obligation to notify an employer concerning the arrest of employees. Israel does, however, notify ICRC as to arrested individuals, as required by its agreement with ICRC, and prisoners are permitted visits by their attorney and family members;

(d) *Paragraphs 144-149* give the impression that the security measures taken by Israel have in some way been implemented as a measure against UNRWA. There is no recognition that these are general measures necessitated by the security situation on the ground. Indeed, wherever possible, UNRWA staff, vehicles and property enjoy far-ranging privileges which constitute a considered departure from Israeli security policy in order to make every effort to facilitate the activities of UNRWA;

(e) *Paragraph 162.* Israel finds the use of the term "unauthorized or improper purposes", describing the abuse of UNRWA installations, as misleading. Terror should be labelled as terror;

(f) *Paragraphs 163-168.* The circumstances or background of terrorism or violence which led to Israeli responses are significantly absent from these paragraphs. Israel has implemented strict procedures to insure the immunity of United Nations installations and authorization at the highest level is required before a military unit may act in such areas. Similarly, procedures for use of live fire in the direction of such installations are well established. It would be appropriate for UNRWA to offer the full context of incidents in order to understand the cause and effect of Palestinian terrorism;

(g) *Paragraph 179.* Despite significant contacts over the last few years, UNRWA has not complied with Israeli legislation in regard to automobile insurance. This legislation is not a "restrictive procedure", rather it is civil law meant to protect citizens travelling on roads in Israel. It is unclear why UNRWA alone among international organizations in the area is unable to comply with this public interest legislation. Furthermore, the juxtaposition of this failure on the part of UNRWA, together with the matter of the Arab boycott in Syria, is clearly inappropriate.

Summary

22. Israeli officials, from the ministerial level down, have been continuously available to meet and coordinate matters with UNRWA officials regarding both general and practical issues arising out of UNRWA operations. For example, Israeli coordination officials continuously facilitate the movements of patients in need of urgent or chronic medical treatment to hospitals in the West Bank and Gaza Strip and in Israel, the movement of medical personnel and ambulances and the replenishing of vital medical equipment and supplies. Israel remains committed to such coordination even in times of increased security alert and widespread military activity, which can impose great difficulties on such coordination efforts.

23. Israel remains fully committed to its obligations to facilitate the humanitarian activities of UNRWA and will continue to explore pragmatic solutions to facilitate such activity. Israel remains hopeful that UNRWA will seek ways to operate within the terms of its mandate so as to continue its humanitarian mission, with due regard and sensitivity to the difficult security situation on the ground. The Government of the State of Israel welcomes the humanitarian assistance granted by UNRWA to the Palestinian population in the West Bank and the Gaza Strip and expects due consideration on the part of the Agency of Israel's security constraints.

UNRWA employees involved in violence and terror

At least 16 Palestinian employees of the United Nations Relief and Works Agency for Palestine Refugees in the Near East are currently in custody. Of this group, there are some who have been convicted and others who are under indictment. The alleged crimes include involvement in a variety of serious security-related crimes, including membership in terrorist organizations, armed attacks against Israeli targets, possession of illegal firearms and transfer of weapons and chemicals for the manufacture of bombs. One of the indictments alleges the use of UNRWA documentation and vehicles in carrying out the crimes. The following are details regarding six of the central cases which have been decided or are currently in legal process. As already noted, there are additional Palestinian employees of UNRWA in custody.

(a) *Halad Salama Muhamad Gondi* (ID Number 945575868). Convicted by the Military Court in Bet El (File 41922/01) for possession of explosives, carrying out a shooting attack aimed at a public bus and throwing Molotov cocktails at a public bus. On 27 May 2003, was sentenced to 7.5 years in prison;

(b) *Jamal Muhamad Ali Shehada*, also known as "Abu Jihad" (ID Number 934980640). Convicted by the Military Court in Judea (File 1154/02) for membership in the Palestinian Islamic Jihad terrorist organization and possession of materials used for explosives. Held senior position in the organization as a member of the governing board in Bethlehem. On 11 August 2003 sentenced to 2.5 years in prison. Note: the court noted that in determining the relatively light sentence, it gave significant weight to the fact that Mr. Shehada's health is in serious condition and that he is suffering from cancer;

(c) *Amar Muhamad Ata Ata'iya* (ID Number 91345819). Currently under indictment at the Military Court in Bet El (File 855/02) for membership in the armed wing of the Palestinian Islamic Jihad terrorist organization and possession of arms, military exercises without a permit and conspiracy to plant explosives;

(d) *Iyad Elias Hasin Raviya* (ID Number 901413476). Currently under indictment at the Military Court in Bet El (File 870/02) for membership in the Hamas terrorist organization and its student wing, "El-cultla el-Islamia", carrying out operations on behalf of Hamas and holding an official position in "El-cultla el-Islamia";

(e) *Muhamad Halil Jemaya Atoya* (ID Number 902922707). Currently under indictment at the Military Court in Judea for membership in the armed wing of the Hamas terrorist organization, possession of a firearm and assisting in the transfer of chemicals which are used to make weapons to a known bomb maker;

(f) *Nahed Attallah*. A senior UNRWA employee currently under indictment at the Military Court in Erez for membership in the Popular Front for the Liberation of Palestine (PFLP) terrorist organization, conspiracy for the transfer of military materiel, abetting attempted homicide, committing acts on behalf of an illegal organization (PFLP) and possession of firearms. It is alleged that these acts were carried out while using identification issued by UNRWA and UNRWA vehicles.

Notes

[1] *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 13* (A/58/13).